In the High Court of Judicature at Madras

Dated: 14/10/2003

Coram

The Honourable Mr.Justice A.K.RAJAN

Writ Petition No.46146 of 2002

S.Chandramohan ..... Petitioner

-Vs-

1. The Registrar
Anna University
Chennai.25.

2. B.M.Ramamoorthy
Deputy Registrar
Anna University
Chennai.25.

3. M.Bhagavathyappan
Deputy Registrar
Anna University
Chennai.25. ..... Respondents

Prayer: Petition filed under Article 226 of the Constitutin of India for the issue of a writ of Certiorarified Mandamus as stated therein.

For petitioner : Mr.T.Fenn Walter

For respondents : Mr.N.G.R.Prasad

:O R D E R

This petition is filed praying to issue a writ of Certiorarified Mandamus calling for the records relates to the resolution number 148.3 .2 dated 21.08.2002 by which the syndicate has approved the selection of the second and third respondents and to quash the same and to direct the first respondent to appoint the petitioner in the post of deputy registrar with effect from 22.08.2002 with all monetary and consequential benefits with cost.

2. The brief facts that are necessary for the disposal of the writ petition is as follows:

The petitioner is working as a Lecturer in the Anna University. To fill up the vacancy for the post of Deputy Registrar, the persons holding the post of Assistant Registrar alone was eligible to be

appointed as Deputy Registrar. Subsequently the Rule was amended whereby the Lecturers are also permitted to be appointed as Deputy Registrar. On 22.05.2002, three posts of Deputy Registrar became vacant and applications were called for for filing up those posts. The petitioner since qualified himself for being considered for the appointment of Deputy Registrar, made an application initially but he was not called for the interview and no intimation about the interview was sent to him, But he appeared in person and he was also called for an interview on 08.02.2002. Though three posts were to be filled up, the selection committed recommended only two persons for appointment and they were appointed as Deputy Registrar. The petitioner's name was not considered for being selected as Deputy Registrar and, therefore, the case of the petitioner is that though he was also interviewed, his name was not considered for appointment since his name was not included in the list of persons sent to the Syndicate as persons considered for selection. Therefore, the petitioner contends that his name was never considered at all for being appointed; the non-consideration of his name for the post of Deputy Registrar is illegal and therefore, the approval of two persons who were selected shall be quashed and directed the respondents to appoint the petitioner in the post of Deputy Registrar with effect from 22.08.2002. The further case of the petitioner is that the Rule of Reservation has not been followed in this case. If the Rule of Reservation has been followed, the petitioner being a candidate belonging to Schedule Caste community, one post should have been reserved for that community and he should have been selected in the post. Since reservation has not been followed, the entire selection becomes illegal. Hence, the above writ petition.

3. Counter-affidavit has been filed by first respondent-Anna University denying the allegations. It is stated that Anna University is established by Act 1978 and it is a Body Corporate. Prior to 1999, the post of Deputy Registrar was filled up by promotion purely based on seniority, and by amendment dated 20.10.1999, the post of Deputy Registrar was also made as a selection post to be filled up from the next lower category of Assistant Registrar which is a non-teaching cadre; however in 2001 by further amendment to suit the statute, promotion to the post of Deputy Registrar was open to the teaching staffs in the cadre of Lecturer also.

4. During 2002, three posts fell vacant and were notified by notification dated 22.05.2002. In response to that, in all, eight candidates applied for the same. When the application was taken up for scrutiny,it was found that, except for the bare claim of administrative experience, the petitioner had not furnished any details of supporting materials with the application in support of his claim. Only three applicants who furnished the details of experience were found eligible to be considered for the post of Deputy Registrar by the Selection Committee which met on 09.07.2002. They are, M/s. B.M.Ramamurthy, Assistant Registrar; M.Bagavathiappan, Assistant Registrar and Dr.S.Paul Raj Lecture, School Mathematics. Therefore, Call letters were issued to the above candidates to appear for an interview. Coming to know about the failure to furnish the materials regarding experience, the petitioner submitted a list of details of supporting his claim of experience in educational administration only in the afternoon of 08.0 7.2002, that is, just prior to the date of interview dated 09.07.2002 . Hence, call letter could not be issued to the petitioner in advance along with the other three candidates On 09.07.2002, it was brought to the notice of the

Selection Committee that the petitioner has placed details regarding Educational Administration. Therefore, the Selection Committee instructed to call the petitioner also for the interview. Accordingly, a call letter was issued to the petitioner to attend the interview on the same day and his name was placed in a separate list as it could not be included in the original list. The committee interviewed all the four persons and selected respondents 2 and 3 for the post of Deputy Registrar. The minutes of the selection committee were placed before the Syndicate and by its 148th meeting held on 21.08.2002, and it approved the selections.

5. It is further stated in the counter-affidavit that while placing the minutes of the selection before the Syndicate, only the first list of three candidates was annexed,while the second list containing the petitioner was omitted to be annexed by oversight. After noticing this omission, the second list was placed before the Syndicate at its 150th meeting held on 18.12.2002 for its perusal. The Selection Committee selected respondents 2and 3 on merit and ability. The petitioner was considered to be appointed the the said post. Mere existence of vacancy does not create an obligation to fill up, even if the petitioner was selected and included in the panel. Further, it is stated that according to Statute 5 of the Special Service Statutes, rule of reservation for appointment shall be applicable only to those posts where direct recruitment is resorted to. There is no provision to provide reservation in promotional posts. There is no merit in the above writ petition and is liable to be dismissed.

6. Learned counsel appearing for the petitioner submitted that the petitioner's name was deliberately omitted form the beginning and deliberately omitted to be considered and that is the reason his name was not included in the original list and that is why he was not sent call letters calling for an interview. Therefore, it is an act of mala fides on the part of the first respondent. In the light of the counter-affidavit filed by the first respondent, the contention of the petitioner's counsel cannot be accepted.

7. Further, it is stated clearly in the coutner that the petitioner did not send the other particulars regarding his educational administration. Since that is the one of the requisite qualification, his name was not included in the first list. Subsequently when the petitioner satisfied the authorities, that he had got experience of educational administration, he was also called for the interview on the same day along with the other three candidates, the selection committee sent the list to the Syndicate as to the persons who were considered for selection. The petitioner's name does not find a place. But that has been explained in the counter filed by the first respondent that it was in a separate sheet of paper and that sheet was failed to be annexed due to oversight. The said averment in the counter cannot be rejected. Therefore, from the counter-affidavit of the first respondent it is seen that the petitioner's name was also considered and his name was sent to the Syndicate also. Therefore, the fact remains that the petitioner's name has been considered by the selection committee. The petitioner has got only a right to be considered for higher post or selection, and when his name has already been considered for selection, mere non-selection does not give rise to any cause of action. Even if no one was selected, nobody can ask the reason why none of them were selected. In fact the respondent could have refused to admit him for interview for the reason

that he had not sent all the relevant documents along with the application. The mere fact the authorities admitted him for the interview on the last minute goes a long way to falsify the argument of mala fides.

8. Learned counsel further submitted that the rule of reservation was not followed. The University being an autonomous body and as it is established by Act 1978. The Tamil Nadu State and Subordinate Service rules and sub rules intoto is not applicable. Only such of those are incorporated in the statute alone are applicable. In Special Service Statutes for administration and technical, Statutes 5 and 5A reads as follows:

"Statute 5: Reservation of Appointment:

Where direct recruitment is resorted to and where the cadre strength the category of post is ten and more, the rule of reservation of appointment shall apply to such category of post as specified in General Rule 22 of Tamil Nadu State and Subordinate Service Rules of the Government of Tamil Nadu as amended from time to time.

5(a) Where direct recruitment is resorted to and where the cadre strength of the category of post is more than one the rule of reservation of appointment shall apply to such category of post as specified in General Rule 22 of Tamil Nadu State and Subordinate Service Rules of the Government of Tamil Nadu as amended from time to time".

9. It is seen that the reservation of appointment as followed under Section 29 of the Anna University Act 1978, Tamil Nadu Act 30 of 19 78 is made applicable only to direct recruitment and when the cadre strength is more than one.

10. The case of the petitioner is that since it is a selection grade post, it is tantamount to direct recruitment. This is not acceptable. Promotion by selection does not mean direct recruitment. Direct recruitment means appointment of a person who is not already in service. Therefore, the above rule of reservation has no application in this case. Therefore, this argument also fails.

11. Learned counsel for the petitioner submitted that in the prior interim order passed, it was specifically mentioned before this Court since by resolution in148th meeting, the earlier resolution was withdrawn. Therefore, the petitioner apprehends that he will not be considered for selection as Deputy Registrar even in future. To that learned counsel for the first respondent produced a circular dated 30.09.2003 whereby it is stated that for the post of Deputy Registrar, even Lecturers with five years experience as a Lecturer in a College or a University with experience in Educational Administration is also eligible. Hence, the apprehension of the petitioner is untenable.

A.K.RAJAN,J.

In the result, the writ petition is dismissed. No costs.

Index: Yes
Internet: Yes

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To
The Registrar, Anna University, Chennai.25.